

Report of City Solicitor

Report to Chief Planning Officer

Date: 9 September 2016

**Subject: CITY OF LEEDS TREE PRESERVATION ORDER (NO.6) 2016
(87 LITTLEMOOR ROAD, PUDSEY, LEEDS LS28 8AW)**

Are specific electoral Wards affected? If relevant, name(s) of Ward(s): Pudsey	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. An 'Area' Tree Preservation Order (No.30 2014) ("the Original Order") was originally made in respect of the above site on 11 December 2015 and subsequently confirmed on 7 May 2016.
2. The landowners made a complaint to the Local Authority Ombudsman, who found that Council had caused injustice as it did not carry out a full inspection before confirming the Original Order on the entire garden.
3. Pursuant to this finding it was agreed that the Council would carry out a full and thorough inspection and assessment of the trees in the garden, make a proper record of the trees and to modify or revoke the Original Order as required, to ensure that only the trees or groups of trees that provide a public amenity are protected.
4. A full inspection was subsequently carried out and recorded, pursuant to which a new Tree Preservation Order (No.6 2016) was made on 17 March 2016 ("the New Order"). The Original Order was simultaneously revoked.
5. Under the Town and Country Planning (Tree Preservation) (England) Regulations 2012 the New Order will expire if it has not been confirmed (whether or not subject to modification) within 6 months of the date of making.

6. An objection to the New Order has been received from the landowners within the statutory objection period, supported by a Tree Safety and Tree Condition Arboricultural Report and a petition of signatures from local residents.
7. The Chief Planning Officer is requested to determine whether or not the New Order should be confirmed as originally served in light of the objection.

Recommendation

8. That the objection is overruled and the New Order confirmed as originally served.

1. Purpose of this report

- 1.1 To set out the background to the making of the New Order and to note the fact that one objection has been submitted to the Council
- 1.2 To seek a determination from the Chief Planning Officer that the objection should be overruled in all the circumstances and that the New Order should be confirmed as originally served.

2 Background information

- 2.1 The Original Tree Preservation Order (No.30 2014) was made in respect of the above site on 11 December 2015 and subsequently confirmed 7 May 2016.
- 2.2 The landowners made a complaint to the Local Authority Ombudsman, who found that Council had caused injustice as it did not carry out a full inspection before confirming the Original Order on the entire garden.
- 2.3 Pursuant to this finding it was agreed that the Council would carry out a full and thorough inspection and assessment of the trees in the garden, make a proper record of the trees and to modify or revoke the Original Order as required, to protect only the trees or groups of trees that provide a public amenity.
- 2.4 A full inspection and assessment subsequently carried out and recorded, pursuant to which a New Tree Preservation Order (No.6 2016) was made on 17 March 2016. The Original Order was simultaneously revoked.

3 Main issues

- 3.1 On 17 April 2016 an objection to the New Order was submitted by the Owner.
- 3.2 The grounds of objection have been considered by a Tree Officer and for the reasons given in his comments it is considered that the New Order should be confirmed as originally served.

4 Corporate Considerations

- 4.1 **Consultation and Engagement**

4.1.1 Tree Preservation Orders are served on landowners on a provisional basis any other party holding an interest in the land other parties and adjoining landowners where any trees overhang their boundary.

4.1.2 A minimum statutory objection period of 28 days applies in respect of any Order made.

4.2 **Equality and Diversity / Cohesion and Integration**

4.2.1 Human Rights. It is necessary to balance the rights of the landowners against the public interest in the protection of trees provided for by the statutory provisions. Local Planning Authorities have the powers to make Tree Preservation Orders if it appears to be expedient in the interests of amenity to make provision for the preservation of trees or woodlands in their area. In the present case the amenity of the trees is considered on balance to justify the making confirmation of a Tree Preservation Order and to outweigh the rights of the property owners to manage trees without local authority control.

4.3 **Council policies and City Priorities**

4.3.1 The work of the Sustainable Development Unit forms a vital element of the Vision For Leeds, City Priority Plan and Council Business Plan, the following two of which are relevant to are The aims of maintaining high quality buildings, places and green spaces, which are clean, looked after and respect the City's heritage and of enabling growth of the city whilst protecting its distinctive green character are promoted by the making of Tree Preservation Orders.

4.4 **Resources and value for money**

4.4.1 There are no resource implications.

4.5 **Legal Implications, Access to Information and Call In**

4.5.1 The Report is not subject to call in.

4.5.2 The Chief Planning Officer is authorised to take the decision whether to determine Tree Preservation Orders under Part 3 Section 2A of the Constitution (Council non-executive functions).

4.6 **Risk Management**

4.6.1 There are no specific risks involved.

5 **Conclusions**

5.7 The grounds of objection have been considered by the Tree Officer and for the reasons given in his comments it is considered that the objection should be overruled.

6. **Recommendation**

That the Order be confirmed as originally served.

7 **Background documents**¹

- 7.1 City of Leeds Tree Preservation Order (No.6) 2016 (87 Littlemoor Road, Pudsey, Leeds LS28 8AW) dated 17 March 2016
- 7.2 Objection by e-mail dated 17 April 2016 (**Exempt under Access to Information Rule 10.4(2)**)
- 7.3 The Tree Officer's comments in respect of the Objection and the accompanying documents.

¹ The background documents listed in this section are available to download from the Council's website, unless they contain confidential or exempt information. The list of background documents does not include published works.